

UNITED STATE. DEPARTMENT OF COMMERCE Patent and Trademark Offic

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APPLICATION NO. FILING DATE FIRST NAMED INVENTOR ATTORNEY DOCKET NO 09/607,675 06/30/00 OGLE P1025 **EXAMINER** 024394 MMC2/1001 LARIVIERE, GRUBMAN & PAYNE, LLP 1 LOWER RAGSDALE, BLDG. 1, SUITE 130 **ART UNIT** PAPER NUMBER P.O. BOX 3140 MONTEREY CA 93942 2811 DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

10/01/01

Office Action Summary Carminer Cuong Q Nguyen 2811			Application No.	Applicant(s)	
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE of THIS COMMUNICATION. Between Communication app ars on the cover sheet with the correspondence addr ss Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. But the part of the properties of the prope			09/607,675	OGLE ET AL.	
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1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4) Interview Summary (PTO-413) Paper No(s) 5) Notice of Informal Patent Application (PTO-152) 6) Other:	2) D Notice	e of Draftsperson's Patent Drawing Review (PTO-948)	5) Notice of Inform		

Application/Control Number: 09/607,675

Art Unit: 2811

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Claims 1-5, drawn to a semiconductor device, classified in class 257, subclass
 314.
- II. Claims 6-13, drawn to a method of making a semiconductor device, classified in class 438, subclass 100+.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case unpatentability of the group I invention would not necessarily imply unpatentability of the group II invention, since the device of the group I invention could be made by processes materially different from those of group II invention, for example in claim 6, selectively forming the gate structures without the step of patterning.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cuong Q Nguyen whose telephone number is (703) 308-1293. The examiner can normally be reached on Mon-Thur.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Thomas can be reached on (703) 308-2772. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Cuong Nguyén

September 28, 2001